

DOWD, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Thomas C. Tyler,)	
)	CASE NO. 5:08 CV 1047
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
Sento Corporation, et al.)	
)	
Defendants.)	
)	

The defendants removed this case from the Summit County Court of Common Pleas Court on April 24, 2008. The initial complaint filed in state court apparently had a series of exhibits attached to it, but the same were not filed in connection with the removal petition. At the case management conference conducted on June 5, 2008, counsel for the defendants agreed to file the exhibits as they should have when they filed the removal petition. A review of the docket demonstrates that despite the promise of defendants' counsel, the series of exhibits attached to the plaintiff's complaint filed in the Common Pleas Court of Summit have yet to be filed for reasons that escape the Court.

The Court conducted the case management conference on June 5, 2008 and established a schedule for discovery and a date for plaintiff to respond to the defendants' motion to transfer. Eventually, the Court referred the motions of the defendant to dismiss for want of jurisdiction, or in the alternative, to transfer the case to the District Court of Utah to Magistrate Judge Benita Pearson. On October 17, 2008, Magistrate Judge Pearson filed an extensive Report and Recommendation recommending a denial of the defendants' motion to dismiss for lack of

(5:08 CV 1047)

personal jurisdiction and also a denial, in the alternative, of the defendant's motion to transfer venue to Utah. *See* Docket No. 32.

On October 24, 2008, counsel for the defendants filed objections to the Magistrate's Report and Recommendation. First, the defendants abandoned their motion to dismiss for want of personal jurisdiction following the 12 page Report and Recommendation of Magistrate Judge Pearson. However, the defendants objected to the recommendation that the Court deny the motion to transfer the case to District Court in Utah. *See* Docket No. 34. Counsel for the plaintiff have not responded to the objection of the defendants.

After reviewing the comprehensive Report and Recommendation of Magistrate Judge Benita Pearson, the Court adopts the same, denies the objections of the defendants based upon the reasoning of Magistrate Judge Benita Pearson.

The previous order of the Court opening discovery has obviously been an exercise in futility. Consequently, the deadline for completing discovery, must, of necessity, be extended.

As a consequence, discovery in this case is extended through the month of April, 2009, and the Court will conduct a status conference in this case on Friday, May 8, 2009 at 1:00 p.m.

The status conference previously scheduled for December is cancelled.

IT IS SO ORDERED.

November 25, 2008
Date

/s/ David D. Dowd, Jr.
David D. Dowd, Jr.
U.S. District Judge